

Topsfield Zoning Board of Appeals

November 27, 2007

Chairman Moriarty called the meeting to order at 7:30 PM. Board members present were Bob Moriarty, Kristin Palace, Tony Penta, Lisa Stern-Taylor and Scott Dow. Roberta Knight, Community Development Coordinator was also present as well as the applicants, their representatives and interested residents. See attached attendance sheets for specific public hearings.

59 Main Street: Developer Ed LeClair joined the Board for a preliminary discussion relative to his proposed plan for 59 Main Street to convert the existing structure consisting of two apartments and a doctor's office to a multi-family structure consisting of two 2-bedroom townhouses and one 1-bedroom townhouse with parking. Mr. LeClair has a purchase & sale agreement contingent on obtaining the necessary permits from the Town for the proposed project. He noted that the newly approved septic system will accommodate the project and was also designed to provide above ground parking over the system. He would need to obtain an Amended Order of Conditions from the Conservation Commission since the property has wetlands in the back and borders School Brook. He also noted that he was on the December 20th agenda for the Historical Commission. He responded to queries from the members concerning density and setbacks, and it was the consensus of the Board that the project would require a special permit for multi-family use, a finding if the project stayed within the existing foot print and site plan review regarding parking.

233 Boston Street: Elizabeth and Peter Mulholland joined the Board for a preliminary discussion relative to leasing the property at 233 Boston Street from the Fairgrounds to operate a cheese processing facility on the site. Manufacturing use requires a special permit in the Business Highway District. The discussion also included the possible granting of retail sales use as a "grandfathered" use since the former occupant Moturis Inc. conducted retail sales. It was the consensus of the Board that the manufacturing use would require a special permit as well as site plan review for the proposed project.

14 Central Street: At 8:05 PM, Chairman Moriarty called the public hearing to order to consider the application of Vernon Haug, Jr. for a finding pursuant to Article III, Section 3.05 of the Zoning By-Law for 14 Central Street, a non-conforming lot, for the renovation of a section of the existing structure by the alteration of the roofline with additional gable dormers to create a two (2) story structure.

Mr. Haug joined the Board to explain his project with a model display demonstrating the existing roofline and the alteration of said roofline. Member Kristin Place made the motion to approve the application for a finding pursuant to Article III, Section 3.05 of the Zoning By-Law; seconded by Lisa Taylor; so voted 5-0.

285 Boston Street: At 8:15 PM, Chairman Moriarty called the continued public hearing to order to consider the application submitted by Fiber Tower Corporation for a Special Permit to add four (4) antennas and related equipment to an existing Major Wireless Telecommunications Facility located at 285 Boston St.

At this time, Sean Conroy representing Fiber Tower Corporation provided the Board with the documentation requested by the Board at the October 23rd hearing as follows:

1. Lease between BAM of Mass. Corp., Ltd (Verizon) and Fiber Tower;
2. Original Certificate of Site Plan Approval dated November 27, 1995;
3. Letter from Daigle Engineers, Inc. dated February 6, 1997 indicating the existing wireless tower was built in “substantial compliance with the contract drawings” (including the tower foundations);
4. Picture of existing wireless tower (looking south from Great Hill Drive);
5. Picture of proposed dish antennas on existing wireless tower (looking south from Great Hill Drive);
6. Letter of Authorization from Richard Skeffington

Mr. Conroy reviewed the documents with the Board and responded to the board member’s questions concerning the structural integrity of the tower, owner lease agreement, equipment cabinets, size and shape of antennas and location of said antennas on the tower.

The Board determined that the subject property is located in the Business Highway District. The Board also reviewed the original decision filed November 27, 1995 and subsequent special permits for additional equipment in 1997, 1998 and 1999. Chairman Moriarty noted that the original decision would need to be amended to allow the circumferential shaped antennas to be installed on the tower.

The Board found that the granting of a special permit for the additional circumferential shaped antennas and related equipment on the tower:

- would not be detrimental to the public convenience or welfare
- would not create undue traffic congestion or impair pedestrian safety
- would not overload any municipal system
- would not impair the integrity or character of the district or adjoining zones
- would not be detrimental to health, safety or welfare

Robert Moriarty moved that the Board adopt the foregoing findings and amend the original decision dated November 27, 1995 by deleting Section 8 and Section 9 to allow for the placement of the four (4) circumferential shaped antennas and related equipment by Fiber Tower Corporation on the tower located at 285 Boston Street, Topsfield MA; seconded by member Kristin Palace; so voted 5-0.

17-19 Main Street: At 8:35 PM, developer Ara Aftandilian joined the Board to discuss his request for a one year extension for the commencement of construction for his building project at 17-19 Main Street relative to the Amended Certificate of Decision on Remand dated January 2, 2007. Mr. Aftandilian explained to the Board that the commencement of construction has been delayed due to the easement issues related to the proposed project at 6 Central Street, and the relocation of the Bike Shop to 7 Grove Street. He plans to file a site plan as soon as the Zoning Board has adjudicated 6 Central Street.

Chairman Moriarty made the motion pursuant to Chapter 40A, Section 10, to grant a six (6) month extension for the Amended Certificate of Decision on Remand dated January 2, 2007 for the commencement of construction from January 2, 2008 to July 2, 2008 due to the coordination of construction with the abutting property at 6 Central Street; seconded by member Lisa Taylor; so voted 5-0.

6 Central Street: At 8:51 PM, Chairman Moriarty called the continued public hearing to order to consider the application of Won K. Choe for premises located at 6 Central Street requesting: (1.) a special permit pursuant to Article III, Section 3.05 to convert an existing non-conforming residential structure to retail/office use and enlarge structure by adding a 150 sq. ft. area addition to the front of the building; (2.) a variance pursuant to Article IV, Section 4.02 to decrease front set back and increase density for non-conforming lot; (3.) a variance pursuant to Article III, Section 3.09 (c.) and Article IV, Section 4.05 for buffer strip requirements; (4.) a special permit pursuant to Article III, Section 3.09 (d.) and Article IV, Section 4.12 (B) to reduce the required on-site parking; and (4.) site plan review pursuant to Article IX of the Zoning Bylaw.

Attorney Kallman, the applicant's representative noted that the use for the building would be for professional office space and also noted that the revised design and site plan resolved issues noted by the Board at the October 23rd meeting concerning the ramp placement, parking and landscaping.

Architect Doug Greene reviewed the schematic drawing and noted:

- The relocation of the handicapped ramp to the side of the building abutting 17-19 Main Street where the shared access is located. The ramp would connect to the covered entry on the front of the building.
- Small addition on front of building with covered entry on either side to allow access to first and second floors with an eleven (11) foot setback from the addition to the sidewalk that would allow for landscaping.

Engineer Dan Obrzut reviewed the revised site plan in regards to parking and noted:

- The revised parking configuration would allow for three (3) parking spaces that would allow for green space between 6 Central and 8 Central. It would be feasible to stack parking for five (5) spaces, however, the green space would be lost and this space would also allow for storage of snow during removal.
- Relative to the landscaping plan, the tree in the back right corner may need to be replaced if roots are damaged by the site work. The front landscaping plan was also reviewed relative to the plantings and specifically a crab apple tree near the front of the side driveway relative to height and site distance.

The Board determined that the subject property is located in the Business Village District. The Board noted that the revised site plan and building design fit within the constraints of the small lot with usage limited to professional offices. However, the Board requested two changes relative to the site plan: (1) that the parking spaces be sited within 10 feet of the lot line with 8 Central Street to gain more space for parking, and (2) that the crab apple tree be replaced with another planting that would allow for better site distance for egress onto Central Street.

Further, the Board found that the granting a finding for professional office, variances for parking and buffer strips and a special permit for the revised site plan with changes as noted above would not be a substantial detriment to the public good and would not nullify or substantially derogate the intent or purpose of the Topsfield Zoning By-law.

The Board further found, after reviewing the site plan and supporting documents and taking into account the objectives of Article IX of the Topsfield Zoning By-Law, that the proposed project:

- would not be detrimental to the public convenience or welfare;
- would not create undue traffic congestion or unduly impair pedestrian safety;
- would not overload any public water, drainage, sewer or other municipal system;
- would not impair the integrity or the character of the Business Village district;
- would not be detrimental to the health, safety or welfare nor create a nuisance to abutting properties or Town amenities;
- would provide adequate parking, lighting, and internal traffic control;
- makes adequate provision for off-street loading and unloading of vehicles incidental to the normal operation of the establishment;
- makes adequate provision for pollution control;
- provides for appropriate landscaping, and preserves, where possible, existing trees;

- will be well-integrated into the existing landscape and will be harmonious, in both the design of the building and of the landscaping, with the character of the Town and the natural landscape.

Robert Moriarty moved that the Board adopt the foregoing findings and grant (1.) a special permit pursuant to Article III, Section 3.05 to convert an existing non-conforming residential structure to professional office use and enlarge structure by adding a 150 sq. ft. area addition to the front of the building; (2.) a variance pursuant to Article IV, Section 4.02 to decrease front set back and increase density for non-conforming lot; (3.) a variance pursuant to Article III, Section 3.09 (c.) and Article IV, Section 4.05 for buffer strip requirements; (4.) a special permit pursuant to Article III, Section 3.09 (d.) and Article IV, Section 4.12 (B) to reduce the required on-site parking; and (4.) site plan review pursuant to Article IX of the Zoning Bylaw.

The motion was seconded by member Tony Penta; so voted 5-0.

367 Boston Street (Dunkin Donuts): At 9:46 PM, Dunkin Donut's owner Dinart Serpa, Attorney Mark Glovsky, Consultant Engineer Scott Cameron, and Dunkin Donut's Engineer Bill Glynn joined the Board to discuss the site plan changes that occurred on the property since the decision was rendered by the Topsfield Zoning Board of Appeals.

Mr. Scott Cameron, the owner's consultant engineer and Bill Glynn, Dunkin Donut's engineer, reviewed the site plan revisions with the Board.

- **Mass Highway Curb Cut:** The Mass Highway curb cut relocated the entrance on the southbound side of Route 1 closer to the intersection with Ipswich Road. The provisions of the curb cut requires no left turn from the southbound side of Route 1 and only a right hand turn for access and egress onto Route 1. Additional directional signs were also placed on the property.
- **Septic System Relocation and Grade Change:** Since the curb cut was relocated down toward the intersection the septic system in turn, needed to be rotated to allow for sufficient grade to enter lot over the system.
- **Buffer Areas and Landscaping:** The Conservation Commission under its Order of Conditions required more green space. As a result, the parking lot was bumped out for a rain garden to replace sub-surface drainage; and the sand dust walkway was changed to a grass area, that will be mowed and maintained as a walkway. The number of parking spaces remains the same. The dumpster was moved eleven (11) feet forward for more green space in buffer area.

For the record, member Kristin Palace noted her concerns as a board member and resident of the area relative to traffic and safety issues on Ipswich Road. Presently there

is a log jam at the intersection morning and evenings and she expressed her concerns relative to the impact on traffic and public safety that the Mass Highway requirements will have by requiring southbound traffic to take a left onto Ipswich Road and then a second left into the parking lot between lined up cars heading west on Ipswich Road. Ms. Palace felt strongly that this requirement would only compound the problem. She also voiced her concern that the walkway be maintained since children and teenagers either walking or on bikes frequent the area, and this pedestrian traffic will only increase with the Dunkin Donut's location at the intersection.

The construction material for the wall was also discussed since it was block construction and not a stone wall as requested by the Board. Ground covering and landscaping will be used to modify the appearance.

Minutes: Chairman Moriarty made the motion to approve the minutes of October 23, 2007 as written; seconded by member Kristin Palace; so voted 5-0.

The meeting was adjourned at 10:21 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator